## Remarks

The Office Action was electronically transmitted on June 27, 2008. In view of the amendment above and remarks below, reconsideration is respectfully requested.

The only remaining rejections relate to scope of enablement. The Office Action points out areas that are fully enabled, but expressed concerns regarding the fragment homogenate methods if only antiphosphotyrosine antibody is used for binding. In response, new claims 18 and 19 now replace all previously pending claims.

New claim 18 is limited to methods relying on the full marker protein (rather than fragments from a homogenate). The Office Action is believed to indicate that at least this subject matter was fully enabled. Also, to further facilitate matters claims 18 and 19 are limited to human kidneys (with claims 2 and 9 therefore being cancelled to avoid duplication).

New claim 19 focuses on the homogenate/detectable fragments/antiphosphotyrosine antibodies. While a 55kDa limitation is included without requiring a second antibody to check visualized fragments, the Office Action's concerns regarding potential theoretical interference from other 55kDa phosphorylated proteins that the Office has now cited have been addressed in a different manner.

In this regard, the claim 19 method is now limited to when no such fragments are detected. When no such fragment is detected, it can only mean that rejection has occurred.

Normal kidney homogenate has some 55kDa. When none is found, there can have been no problematic masking interference by other phosphorylated proteins. Of course, even if Applicant had tried to use language about use of a second antibody to check out the nature of a visualized band, if no band is found

there would be nothing to check out, and the inclusion of the second antibody language would not add anything.

Applicant notes that on page 10 of the Office Action the Office Action itself implied significantly less concern about enablement when there was a lack of a band at about 55kDa, than when one was evaluating decreases in intensity. Claim 19 is consistent with this approach.

Of course, even if claim 19 had not been limited to situations where no band was visualized at about 55kDa using the antiphosphotyrosine on the homogenate, it is respectfully noted that such a claim would still have been enabled. As previously noted, the submitted declaration confirms no material interference in practice (e.g. presumably because these other proteins are not present in significant amounts, or don't survive the homogenation, or are affected similarly in the standard, or are not materially upregulated when the key protein is downregulated).

The state of the record indicates that whatever theoretical concerns the Office has about such interference (regardless of how many other 55kDa phosphorylated proteins may exist in natural kidney) don't cause a practical problem. That evidence is uncontested. In any event, that argument is now moot as claim 19 now only covers situations where there is a lack of a band.

## Conclusion

In sum, claim 18 is believed focused on subject matter that has previously been indicated to be enabled, and claim 19 is now further limited to those circumstances where purported other phosphorylated proteins aren't present in the homogenate. Thus, reconsideration and allowance are respectfully requested.

No additional fee is believed necessary for the consideration of the enclosed declaration and interview summary.

The three month period was initially set to end September 27, 2008, but that was a Saturday so that the initial response period actually ended September 29. However, if one is, please consider this as an extension petition and please then charge Deposit Account 17-0055 for the needed fees.

Respectfully submitted,

Majed M. Hamawy

Dated: September 29, 2008 By: _____

Carl R. Schwartz
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 277-5715
Reg. No. 29,437

MKE\6324687